IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

RP.No. 493 of 2007()

AGAINST THE JUDGEMENT/ORDER IN MFA.594/1999 Dated 22/08/2006.

.....

PETITIONER/APPELLANT

THE REGIONAL DIRECTOR,
ESI CORPERATION, THRISSUR.

BY ADV. SMT.T.D.RAJALAKSHMY, SC, ESI CORPN.

RESPONDENTS: RESPONDENT

MR. H.SREEDHARAKAMMATH,
S/O H.VITAL KAMMATH, GAJANANA ENGINEERING INDUSTRIES, KANHANGAD POST, KASARAGOD DISTRICT.

BY ADV. SRI.P.R.RAMACHANDRA MENON

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 12/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.KOSHY & M.SASIDHARAN NAMBIAR, JJ.

R.P.No.493 OF 2007 in
M.F.A.No.594 of 1999 and
C.M.Appl.No.777 of 2007

Dated 12th July, 2007

ORDER

Koshy,J.

C.M.Appl.No.777 of 2007 is a petition to condone the delay of 112 days in filing the review petition. Petitioner wanted coverage of respondent's establishment from 1.10.1984 to 1.4.1990 on the basis of the amendment of Section 2(12) with effect from 20.10.1989. Report of the Local Office Manager stated that 11 persons were working on 2.7.1990. Before that employees' strength was below 10. It was also noticed that notice covering factories employing ten or more persons came into effect from 20.10.89 as the Act was amended with effect from 20.10.89. The Employees' Insurance Court held that coverage can only with effect from 20.10.89. It is the case of the petitioner that there was a notification covering factories employing ten or more persons with effect from 1984. That was not produced before the E.I. Court or before this court even though proceedings started by issuing show cause notice in 1991.

Apart from the above, it is unjust for this court to direct the employer to cover the employees retrospectively with effect from two decades back as those employees might have retired and no retirement benefits can be granted. The Corporation cannot plead that they took one and a half decades for tracing out the notification covering establishments. Even if loss is caused to Corporation, the Corporation is free to realize the amount from it's officers who failed to trace notification in time. There is no ground to review the judgment. No satisfactory grounds are made out to condone the long delay of 112 days also. Hence, both delay condonation petition as well as review petition are dismissed.

J.B.KOSHY
JUDGE

M.SASIDHARAN NAMBIAR
JUDGE

tks